

**REMARKS/ARGUMENTS**

By this Amendment, claim 21 is amended. Claims 1-21 are pending.

Citations to the Specification are directed to U.S. Patent Application Publication No. 2008/0242858.

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

**Rejection under 35 USC 112 second paragraph**

Claims 1-21 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

In Hybritech Inc. v. Monoclonal Antibodies, Inc., 231 USPQ. 81, 94 (CAFC 1986) it was stated:

" . . if the claims read in light of the specification, reasonably apprise those skilled in the art both of the utilization and scope of the invention, and if the language is as precise as the subject matter permits, the courts can demand no more." (citing Shatterproof Glass Corp. v. Libbey Owens Ford. Co. 225 USPQ 634, 641 (CAFC 1985)).

Thus, whether a claim is in compliance with the second paragraph of § 112 requires a determination of whether those skilled in the art would understand what is claimed when the claim is read in light of the specification.

The Examiner sets forth that claim 3 is ambiguous, allegedly because it might be further narrowing the step (a) temperature, or it might refer to so other step, e.g. the hydrolysis reaction of step (c), and notes claim 11.

However, claim 3 depends from claim 2, and sets forth the limitation that the reaction is carried out at about 0 – 10°C. Since claim 2 depends from claim 1, and sets forth that the reaction in step (a) is carried out below about 15°C, one skilled in the art would understand what is claimed.

The Examiner further alleges that the intent of claim 20 is unclear, alleging that it appears to be identical to claim 18, and asks whether the dependency is wrong. However, claim 20 depends from, and further limits, claim 19. Claim 19 depends from claim 1, and sets forth that the acid in step (e) is selected from aqueous hydrochloric acid and aqueous sulfuric acid.

Therefore, one skilled in the art would understand what is claimed.

Claim 18 is different from claim 20, because claim 18 depends from, and further limits, claim 17. Claim 17 sets forth that the acid used in step (d) is selected from aqueous hydrochloric acid, aqueous sulfuric acid and aqueous phosphoric acid. Thus, claim 20 is clearly different from claim 18.

The Examiner sets forth that judging from claim 21, claim 1 step (e) must be considered as miswritten. It appears that the intention is to precipitate cefixime trihydrate, not cefixime itself. These are different things, with different chemical composition. However, claim 1 step (e) recites "crystallizing cefixime of formula I by adjusting the pH of the resulting solution of step (d) to about 2.0 to 3.5 with an acid and cooling if required." Therefore, claim 1 step (e) recites cefixime, and the claim is definite.

Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

#### **Claim Objections**

Claim 21 stands objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. The Examiner sets forth that Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The Examiner sets forth that the claim as written does not limit claim 1, as claim 1 does not provide for cefixime in the first place.

However, as set forth above, claim 1 step (e) recites "crystallizing cefixime of formula I by adjusting the pH of the resulting solution of step (d) to about 2.0 to 3.5 with an acid and cooling if required." Therefore, claim 1 step (e) recites cefixime.

The Examiner sets forth that claim 21 needs to end in a period. Claim 21 has been amended herein to add a period.

Accordingly, reconsideration and withdrawal of the claim objections is requested.

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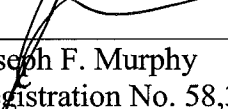
For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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